

REMARKS/ARGUMENTS

Applicant responds herein to the Final Office Action dated January 11, 2008.

Applicant's attorneys appreciate the Examiner's continued thorough search and examination of the present patent application.

Claims 1-28 are pending in this application. Claims 17-28 have been withdrawn from consideration. Claims 1-16 have been rejected. Claims 13-16 have been objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form.

Claims 1-2, 8 and 10 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,726,677 to Flaherty ("Flaherty"). Reconsideration is respectfully requested.

Claims 3-5 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Flaherty in view of U.S. Patent No. 6,605,033 to Matsuno ("Matsuno"). Reconsideration is respectfully requested.

Claims 6, 7, 9 and 11 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Flaherty in view of Matsuno and in further view of U.S. Patent Application Publication No. 2003/0216616 to Krupa ("Krupa"). Reconsideration is respectfully requested.

Claim 12 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Flaherty in view of U.S. Patent Application Publication No. 2002/0032365 to Hiroshi Hasegawa, et al. ("Hasegawa"). Reconsideration is respectfully requested.

Claim 1 has been amended to clarify its recitation. Specifically, the amended claim 1 is directed to an endoscope system that includes a guide member for guiding an insertion unit. The guide member is formed using a plurality of tubular members. In particular, claim 1 recites that "each tubular member of the plurality of tubular members having ... a direction changing unit operative to change an advancing direction" and "a predetermined length shorter than the predetermined length of another tubular member passing through its guide channel."

In other words the guide member is formed by connecting at least two (a plurality of) tubular members, each having a direction changing unit. This is illustrated in Figures 3, where the direction of the tubular member 8b is changed as it is passed through the direction changing unit 9a of the tubular member 8a. Similarly, the direction of the insertion unit 2a is changed twice,

first as it passes through the direction changing unit 9a of the tubular member 8a and again as it passes through the direction changing unit 9b of the tubular member 8b. Note that the length of the tubular member 8b having a narrower diameter is longer than the length of the tubular member 8a having a wider diameter.

Flaherty fails to anticipate claim 1 at least for the following reasons. First, it does not disclose a plurality of tubular members for forming a guide member or its catheter 80 for passing the insertion unit or sheath 86. Therefore, Flaherty does not teach, disclose, or suggest “the guide member ... including a plurality of tubular members having varying outer diameters” as recited in claim 1.

Further, with regard to the curved deflecting portion 108 illustrated in Figures 4a and 4b of Flaherty and equated by the Examiner to the direction changing unit of the present invention. At page 9, lines 6 to 8, Flaherty states the following:

The working lumen 106 is sized to receive a tissue penetrating element (not illustrated) suitable for passing through body tissue and desirably forming a channel therethrough.

In other words, Flaherty only anticipates using the lumen 106 and its curved deflecting portion 108 for passage of a tissue penetrating element suitable for passing through body tissue. This does not rise to a level of disclosing using a plurality of tubular members to form a guide member as discussed above. Moreover, the catheter body 102 of Flaherty is not extendable, Flaherty does not discuss extending its catheter by passing tubular members through the guide channel or the working lumen 106. Therefore, Flaherty does not teach, disclose, or suggest that “tubular members having smaller outer diameter and the insertion unit are advanced through the guide channel” as recited in claim 1.

Thus, Flaherty fails to anticipate claim 1.

Matsuno, Krupa, Hasegawa have not been used by the Examiner to reject independent claim 1.

Claims 2-16 depend directly or indirectly from the above discussed independent claim 1 and are, therefore, allowable for the same reasons, as well as because of the combination of features in those claims with the features set forth in the respective independent claims.

Accordingly, the Examiner is respectfully requested to reconsider the application, allow the claims as amended and pass this case to issue.

THIS CORRESPONDENCE IS BEING
SUBMITTED ELECTRONICALLY
THROUGH THE UNITED STATES
PATENT AND TRADEMARK OFFICE
EFS FILING SYSTEM
ON APRIL 11, 2008

Respectfully submitted,



MAX MOSKOWITZ

Registration No.: 30,576

OSTROLENK, FABER, GERB & SOFFEN, LLP

1180 Avenue of the Americas

New York, New York 10036-8403

Telephone: (212) 382-0700